

RECEIVED  
CENTRAL FAX CENTER

DEC 20 2006

REMARKSI. General

As pointed out above, this amendment is presented under 37 CFR 1.116 and is intended to place this application in condition for allowance, or at least in better form for appeal. Therefore, the Examiner should enter this amendment.

The issues outstanding in the instant application are that the Office Action has been improperly made final and that claims 1-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bruchner et al., United States Patent Number 5,820,503 (hereinafter *Bruchner*).

Applicant respectfully traverses these rejections and requests reconsideration in light of the amendments presented above and the arguments presented below. Certain paragraphs of the application specification are amended above to correct typographical errors. Thus, no new matter has been added by these amendments. Claims 1-13 are currently pending in this application.

II. Improper Finality

Applicant respectfully contends that the present Office Action has been improperly made final. In particular, Applicant respectfully contends that the rejections of claims 3 and 9, and claims 4 and 10 which depend therefrom, do not comport with Office policy. Specifically, the Examiner is directed that "[i]n accordance with the patent statute, 'Whenever, on examination, any claim for a patent is rejected, or any objection . . . made', notification of the reasons for rejection and/or objection together with such information and references as may be useful in judging the propriety of continuing the prosecution (35 U.S.C. 132) should be given," M.P.E.P. § 707. In the current and previous Office Actions, the Examiner refers to an "attached drawing" when addressing claim 3 (and by inference claim 9). However, no drawing was attached to the prior or present Office Actions. As such, the Examiner has not "clearly articulate[d] any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise respond completely at the earliest opportunity," M.P.E.P. § 706.

Applicant therefore respectfully requests that the Examiner set forth the basis for the rejection of claim 3 and the corresponding rejection of claims 9, as well as the resulting rejections of claims 4 and 10 which depend therefrom, in a non-final Office Action, at least by proving the referenced drawing, so that Applicant may have a full and fair opportunity to explore the

patentability of claims 3, 4, 9 and 10. In order to provide such a rejection and present the heretofore absent referenced drawing, the finality of the present Office Action must be removed.

### III. Rejections under 35 U.S.C. § 102

As noted, claims 1-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Bruchner*. Applicant respectfully traverses these rejections for the reasons advanced below.

It is well settled that to anticipate a claim, a reference must teach every element of the claim, see M.P.E.P. § 2131. Moreover, in order for a reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim," see M.P.E.P. § 2131, citing *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim," see M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Applicant respectfully asserts that the rejections of the do not satisfy one or more of these requirements, as detailed below.

Independent claims 1 and 7, as amended recite "a dual function fastener that fixes said idler to a mount and that adjusts tension of said pulley on a power transmission belt as said fastener is tightened to fix said idler to said mount". The amendments to these claims, made to clarify the nature of a "dual function fastener," as originally defined in the specification, are supported at least in the paragraph beginning on line 24 of page 4 of the present specification. Also, independent claim 13, as originally filed, recites "applying tension to said power transmission belt by applying a tightening torque to said dual function fastener, and fixing the position of said tension adjusting member by applying said tightening torque to said dual function fastener." Applicant respectfully contends that *Bruchner* does not disclose at least the above recited elements of claims 1, 7 and 13. At column 2, lines 63-66, *Bruchner* states "A screw 5 is inserted through the bore 4 and screwed into the protective plate 1 so that the bearing pin 3 can be clamped tight between the screw head 6 and the protective plate 1." Thereafter, in the paragraph beginning on line 14 of column 3, *Bruchner* describes providing initial tension using "thumb pressure." Finally, at column 3, lines 29-33, *Bruchner* describes providing final tension by stating: "With the help of a wrench applied to the wrench-application surface 12, the bearing pin 3

is then turned around the eccentric 5 (sic) in anti-clockwise direction beyond the top dead center of the bearing pin 3." Thus, *Bruchner* describes using thumb pressure and a wrench applied to wrench flats 12 to tension a belt, not screw 5 as identified by the Office Action. Therefore, it is clear, from at least this discussion in *Bruchner*, that *Bruchner* does not teach (or suggest) "a dual function fastener that fixes said idler to a mount and that adjusts tension of said pulley on a power transmission belt as said fastener is tightened to fix said idler to said mount," as now recited by claims 1 and 7, nor "applying tension to said power transmission belt by applying a tightening torque to said dual function fastener" as recited in claim 13. Rather, *Bruchner* teaches the more conventional application of tension and fixing using two separate mechanisms.

Therefore, *Bruchner* clearly fails to teach all elements of independent claims 1 and 7, particularly as amended, and independent claim 13, as filed. Hence, Applicant respectfully asserts that at least for the above reasons independent claims 1, 7 and 13 are patentable over the 35 U.S.C. § 102 rejections of record. Furthermore, there are great differences between claim 1, 7 or 13 and the art of record, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

Claims 2-6 each ultimately depend from independent claim 1 and claims 8-12 each ultimately depend from independent claim 7. Thus, each of claims 2-6 and 8-12 inherit all elements of claims 1 and 7, respectively. Therefore, for at least the reasons advanced above in addressing the anticipation rejection of claims 1 and 7, each of claims 2-6 and 8-12 set forth features and elements not recited by *Bruchner*. Hence, Applicant respectfully asserts that claims 2-6 and 8-12 are also patentable over the 35 U.S.C. § 102 rejection of record.

Furthermore, many of claims 2-6 and 8-12 contain elements not taught or suggested by *Bruchner*. For example, *Bruchner* fails to teach or suggest a tension adjusting member comprising a reaction friction surface and a resistance friction surface as recited in claims 3 and 9, particularly where the reaction friction surface cooperates with a reaction mating surface of a dual function fastener to produce a reaction torque upon said tension adjusting member greater than a resistance torque produced by a cooperation of the said resistance friction surface with a mounting surface, such as recited in claims 4 and 10. Thus, at least dependent claims 3, 4, 9 and 10 are further patentable over the rejections of record.

RECEIVED  
CENTRAL FAX CENTER

DEC 20 2006

**IV. Conclusion**

Applicant again wishes to reiterate that this amendment is presented under 37 CFR 1.116 and is intended to place this application in condition for allowance, or at least in better form for appeal. Therefore, the Examiner should enter this amendment, particularly whereas, for at least the reasons given above, the pending claims, at least as amended above, distinguish over the prior art of record under 35 U.S.C. § 102. Accordingly, Applicant submits that this application is in condition for full allowance. Alternatively, as pointed out above, the rejections in this case have improperly been made final. Thus, the amendments should be entered and a non-final Office Action should be issued to address the rejections and arguments presented above.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 07-0475, from which the undersigned is authorized to draw.

Applicant respectfully requests that the Examiner call the below listed attorney if the Examiner believes that the attorney can be helpful in resolving any remaining issues or can otherwise be helpful in expediting prosecution of the present application.

Date: December 20, 2006

JLM  
Denver, Colorado

Respectfully submitted,



Jerry L. Mahurin  
Attorney for the Applicant  
Reg. No. 34,661  
The Gates Corporation  
IP Law Department 10-A3  
1551 Wewatta Street  
Denver, CO 80202  
(303) 744-5796